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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,728	04/13/2000	Michael A. Epstein	PHA 23,671	7174
24737	7590	11/15/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			REVAK, CHRISTOPHER A	
			ART UNIT	PAPER NUMBER
			2131	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

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Technology Center 2100

Application Number: 09/548,728
Filing Date: April 13, 2000
Appellant(s): EPSTEIN, MICHAEL A.

Robert M. McDermott
Reg. No. 41,508
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 2, 2005 appealing from the Office action mailed June 24, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,638,513	ANANDA et al	06-1997
White	How Computers Work, pgs 126, 127	09-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Please refer to the Final Office action mailed on April 21, 2005

Claims 1,2,4,5, and 11-14 are rejected under 35 USC 102(b) as being anticipated by Ananda et al.

Claim 3 is objected to as to being dependent upon a rejected base claim, but would be allowable is rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claims 6-10 are allowable over the prior art of record.

(10) Response to Argument

Claims 1-2 and 4-5

a.) The Appellant argues that the Ananda et al does not teach "receiving a security response, based on a security challenge, from the receiving device when the

copy of the content material is removed from the receiving device". The Appellant agrees that "removal" of the content material includes terminating access to the material as the Examiner has previously indicated. It is further argued that when the teachings of Ananda et al terminates access, the user is informed that access has been terminated.

The Examiner agrees with the Appellant's statement that Ananda teaches the user is informed that access has been terminated, however the Examiner disagrees with the Appellant's interpretation of Ananda. Ananda discloses of a secure rental facility that which allows a remote computer to connect to a central rental facility and transfer application software from the central rental facility to the remote computer while electronically connected to the central rental facility, see column 2, lines 47-58. The central rental facility requires the user to provide a unique identification password to access the system, see column 3, lines 12-14. This unique identification password is interpretation as the "challenge". As per the "security response", Ananda discloses that when the test fails when it an unauthorized attempt is detected for using the application software, and execution is then terminated, see column 9, line 66 through column 10, line 10. In various locations of Ananda, it is recited that a user is informed by a message signifying termination of execution by the application software on the remote computer, that is interpreted as the receiving device, see column 4, lines 29-30; column 10, lines 29-30; column 12, lines 65-67; and column 14, lines 11-14. The issue at hand is defining what the "security response" is, the Examiner contends that the claim language is broad enough and the Examiner's interpretation is reasonable in that the "security response" is just a security message informing a user that access is being

terminated and that the Appellant's claims do not distinguish from the cited portions of the teachings of Ananda.

b.) The Appellants argues that Ananda is silent in disclosing a "challenge-response protocol" and that the "challenge" and "response" are conventionally used in verification issues whereby a "challenge" is issued and the verification is performed based on the received "response".

The Examiner disagrees with this argument for two reasons. The terms "challenge" and "response" are both separately claimed in different steps, however, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., challenge-response protocol) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As the Appellant has recited, the "challenge" and "response" are conventionally used in verification issues whereby a "challenge" is issued and the verification is performed based on the received "response". The Appellant has placed conditions on the "challenge" and "response", the "challenge" is communicated to the receiving device when the copy of the content material is communicated to the receiving device and the "security response" is received and based on the "security challenge" **when** the copy of the content material is removed from the receiving device. These recited limitations from claim 1 are different from the conventional usage of "challenge-response protocols". The Appellant has agreed that the "removal" of the content material includes

terminating access to the material as the Examiner has previously indicated in the teachings of Ananda. Furthermore, as is argued by the Examiner from above from Ananda, it is recited that a user is informed by a message signifying termination of execution by the application software on the remote computer, that is interpreted as the receiving device, see column 4, lines 29-30; column 10, lines 29-30; column 12, lines 65-67; and column 14, lines 11-14. The issue at hand is defining what the "security response" is, the Examiner contends that the claim language is broad enough and the Examiner's interpretation is reasonable in that the "security response" is just a security message informing a user that access is being terminated and that the Appellant's claims do not distinguish from the cited portions of the teachings of Ananda and the Appellant's arguments are moot since "challenge-response protocol" is not specifically claimed.

Claims 11-14

a.) The Appellant argues that Ananda fails to disclose of receiving a "security challenge" associated with the content material, or that Ananda's receiving device stores such a challenge and the since Ananda fails to disclose of receiving a security challenge associated with the content material, then it cannot be said to teach communicating a security response.

The Examiner respectfully disagrees. Firstly, Ananda discloses of a secure rental facility that allows a remote computer to connect to a central rental facility and transfer application software from the central rental facility to the remote computer while

electronically connected to the central rental facility, see column 2, lines 47-58. The central rental facility requires the user to provide a unique identification password to access the system, see column 3, lines 12-14. This unique identification password is interpreted as the "challenge". Secondly, the Appellant's argument of Ananda not storing the challenge has not been presented by the Appellant until the filing of this brief, however the Examiner has cited "How Computers Work" as evidence in a previous action that recites of a circular buffer that stores information that is used by a processor for execution, and once the end of the buffer is reached, it returns to the beginning to see if more instructions are contained within it, see page 127, item #9. The circular buffer is interpreted as a temporary storage since the data is overwritten or erased by the addition of new data, hence, the challenge information of Ananda is temporarily stored. Thirdly, as per the "security response", Ananda discloses that when the test fails when it an unauthorized attempt is detected for using the application software, execution is then terminated, see column 9, line 66 through column 10, line 10. In various locations of Ananda, it is recited that a user is informed by a message signifying termination of execution by the application software on the remote computer, that is interpreted as the receiving device, see column 4, lines 29-30; column 10, lines 29-30; column 12, lines 65-67; and column 14, lines 11-14. The issue at hand is defining what the "security response" is, the Examiner contends that the claim language is broad enough and the Examiner's interpretation is reasonable in that the "security response" is just a security message informing a user that access is being terminated

and that the Appellant's claims do not distinguish from the cited portions of the teachings of Ananda.

b.) The Appellant has argued for claim 13 wherein Ananda discloses that the password is a security response and not a security challenge.

The Examiner respectfully disagrees. Ananda discloses of a secure rental facility that which allows a remote computer to connect to a central rental facility and transfer application software from the central rental facility to the remote computer while electronically connected to the central rental facility, see column 2, lines 47-58. The central rental facility requires the user to provide a unique identification password to access the system, see column 3, lines 12-14. This unique identification password is interpreted as the "challenge". As per the "security response", Ananda discloses that when the test fails when it an unauthorized attempt is detected for using the application software, execution is then terminated, see column 9, line 66 through column 10, line 10. In various locations of Ananda, it is recited that a user is informed by a message signifying termination of execution by the application software on the remote computer, that is interpreted as the receiving device, see column 4, lines 29-30; column 10, lines 29-30; column 12, lines 65-67; and column 14, lines 11-14. The issue at hand is defining what the "security response" is, the Examiner contends that the claim language is broad enough and the Examiner's interpretation is reasonable in that the "security response" is just a security message informing a user that access is being terminated and that the Appellant's claims do not distinguish from the cited portions of the teachings of Ananda.

In conclusion, the Examiner has found the Appellant has argued a different aspect in regards to Ananda for each and every response, however the argued limitations do not distinguish from the prior art teachings of Ananda. The Appellant has argued features such as “for limiting simultaneous copies of content material”, “the number of copies of the software”, “receiving a security response when a copy of the software is removed from the receiving device”, and the “removal or erasing of the content from the receiving device”. The Examiner has addressed each and every one of the points argued by the Appellant and has not been persuaded by those arguments. The Examiner does not find the Appellant’s arguments to be persuaded and it is respectfully requested by the Examiner that the Examiner’s rejection of claims 1,2,4,5, and 11-14 be maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.


Art Unit: 2131

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Christopher Revak

Primary Examiner



11/14/05

AU 2131

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